



6712-01

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 14

[CG Docket No. 10-213 and 10-145, WT Docket No. 96-198; FCC 11-151]

**Implementing the Provisions of the Communications Act of 1934, as Enacted by the
Twenty-First Century Communications and Video Accessibility Act of 2010**

AGENCY: Federal Communications Commission.

ACTION: Final rule; announcement of effective date.

SUMMARY: In this document, the Commission announces that the Office of Management and Budget (OMB) has approved, for a period of three years, the information collection associated with the Commission's document Implementing the Provisions of the Communications Act of 1934, as Enacted by the Twenty-First Century Communications and Video Accessibility Act of 2010, (Report and Order). This notice is consistent with the Report and Order, which stated that the Commission would publish a document in the Federal Register announcing the effective date of those rules.

DATES: The amendments to 47 CFR 14.5, 14.20(d), 14.31, 14.32, and 14.34 through 14.52, published at 76 FR 82354, December 30, 2011, are effective **[INSERT DATE UPON PUBLICATION IN THE FEDERAL REGISTER]**.

FOR FURTHER INFORMATION CONTACT: Rosaline Crawford, Disability Rights Office, Consumer and Governmental Affairs Bureau, at (202) 418-2075, or e-mail Rosaline.Crawford@fcc.gov.

SUPPLEMENTARY INFORMATION: This document announces that, on April 16, 2012, OMB approved, for a period of three years, the information collection requirements contained in the Commission's Report and Order, FCC 11-151, published at 76 FR 82354, December 30, 2011. The OMB Control Number is 3060-1167. The Commission publishes this notice as an announcement of the effective date of the rules. If you have any comments on the burden estimates listed below, or how the Commission can improve the collections and reduce any burdens caused thereby, please contact Cathy Williams, Federal Communications Commission, Room 1-C823, 445 12th Street, SW, Washington, DC 20554. Please include the OMB Control Number, 3060-1167, in your correspondence. The Commission will also accept your comments via the Internet if you send them to PRA@fcc.gov <<mailto:PRA@fcc.gov>>.

To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an e-mail to fcc504@fcc.gov <<mailto:fcc504@fcc.gov>> or call the Consumer and Governmental Affairs Bureau at (202) 418-0530 (voice), (202) 418-0432 (TTY).

SYNOPSIS

As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507), the FCC is notifying the public that it received OMB approval on April 16, 2012, for the information

collection requirements contained in the Commission's rules at 47 CFR 14.5, 14.20(d), 14.31, 14.32, and 14.34 through 14.52.

Under 5 CFR 1320, an agency may not conduct or sponsor a collection of information unless it displays a current, valid OMB Control Number.

No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act that does not display a current, valid OMB Control Number. The OMB Control Number is 3060-1167.

The foregoing notice is required by the Paperwork Reduction Act of 1995, Pub. L. 104-13, October 1, 1995, and 44 U.S.C. 3507.

The total annual reporting burdens and costs for the respondents are as follows:

OMB Control Number: 3060-1167.

OMB Approval Date: April 16, 2012.

OMB Expiration Date: April 30, 2015.

Title: Accessible Telecommunications and Advanced Communications Services and Equipment.

Form Number: N/A.

Type of Review: New collection.

Respondents: Individuals or households; Businesses or other for-profit entities; Not-for-profit Institutions.

Number of Respondents and Responses: 9,454 respondents; 119,660 responses.

Estimated Time per Response: .50 to 40 hours.

Frequency of Response: Annual, one time, and on occasion reporting requirements; Recordkeeping requirement; Third-party disclosure requirement.

Obligation to Respond: Mandatory. Statutory authority for this information collection is contained in sections 1-4, 255, 303(r), 403, 503, 716, 717, and 718 of the Act, 47 U.S.C. 151-154, 255, 303(r), 403, 503, 617, 618, and 619.

Total Annual Burden: 408,695 hours.

Total Annual Cost: \$110,588.

Nature and Extent of Confidentiality: Confidentiality is an issue to the extent that individuals and households provide personally identifiable information, which is covered under the FCC's system of records notice (SORN), FCC/CGB-1, "Informal Complaints and Inquiries." As required by the Privacy Act, 5 U.S.C. 552a, the Commission also published a SORN, FCC/CGB-1 "Informal Complaints and Inquiries," in the Federal Register on December 15, 2009 (74 FR 66356) which became effective on January 25, 2010.

In addition, upon the service of an informal or formal complaint, a service provider or equipment manufacturer must produce to the Commission, upon request, records covered by 47 CFR 14.31 of the Commission's rules and may assert a statutory request for

confidentiality for these records. All other information submitted to the Commission pursuant to Subpart D of Part 14 of the Commission's rules or to any other request by the Commission may be submitted pursuant to a request for confidentiality in accordance with 47 CFR 0.459 of the Commission's rules.

Privacy Impact Assessment: Yes. The Privacy Impact Assessment (PIA) was completed on June 28, 2007. It may be reviewed at:

[<http://www.fcc.gov/omd/privacyact/Privacy_Impact_Assessment.html>](http://www.fcc.gov/omd/privacyact/Privacy_Impact_Assessment.html). The Commission is in the process of updating the PIA to incorporate various revisions made to the SORN.

NOTE: The Commission will prepare a revision to the SORN and PIA to cover the PII collected related to this information collection, as required by OMB's Memorandum M-03-22 (September 26, 2003) and by the Privacy Act, 5 U.S.C. 552a.

Needs and Uses: On October 7, 2011, in document FCC 11-151, the Commission released a Report and Order adopting final rules to implement sections 716 and 717 of the Communications Act of 1934 (the Act), as amended, which were added to the Act by the "Twenty-First Century Communications and Video Accessibility Act of 2010" (CVAA). See Pub. L. 111-260, § 104. Section 716 of the Act requires providers of advanced communications services and manufacturers of equipment used for advanced communications services to make their services and equipment accessible to individuals with disabilities, unless doing so is not achievable. See 47 U.S.C. 617. Section 717 of the Act establishes new recordkeeping requirements and enforcement procedures for service providers and equipment manufacturers that are subject to sections 255, 716, and

718 of the Act. See 47 U.S.C. 618. Section 255 of the Act requires telecommunications and interconnected VoIP services and equipment to be accessible, if readily achievable. See 47 U.S.C. 255. Section 718 of the Act requires web browsers included on mobile phones to be accessible to and usable by individuals who are blind or have a visual impairment, unless doing so is not achievable. See 47 U.S.C. 619.

Specifically, the rules adopted in document FCC 11-151 have the following possible related information collection requirements:

a) The rules adopted in document FCC 11-151 establish procedures for advanced communications service providers and equipment manufacturers to seek waivers from the accessibility obligations of section 716 of the Act and, in effect, waivers from the recordkeeping requirements and enforcement procedures of section 717 of the Act.

Waiver requests may be submitted for individual or class offerings of services or equipment which are designed for multiple purposes, but are designed primarily for purposes other than using advanced communications services. All such waiver petitions will be put on public notice for comments and oppositions.

b) The CVAA and the rules adopted in document FCC 11-151 require service providers and equipment manufacturers that are subject to sections 255, 716, or 718 of the Act to maintain records of the following: (1) their efforts to consult with people with disabilities; (2) descriptions of the accessibility features of their products and services; and (3) information about the compatibility of their products with peripheral devices or specialized customer premises equipment commonly used by individuals with disabilities to achieve access. These recordkeeping requirements are necessary to facilitate

enforcement of accessibility obligations. Document FCC 11-151 provides flexibility by allowing covered entities to keep records in any format, recognizing the unique recordkeeping methods of individual entities. Because complaints regarding accessibility of a service or equipment may not occur for years after the release of the service or equipment, covered entities must keep records for two years from the date the service ceases to be offered to the public or the equipment ceases to be manufactured. Service providers and equipment manufacturers are not required to keep records of their consideration of achievability or the implementation of accessibility, but they must be prepared to carry their burden of proof in any enforcement proceeding, which requires greater than conclusory or unsupported claims.

c) The CVAA and the rules adopted in document FCC 11-151 require an officer of service providers and equipment manufacturers that are subject to sections 255, 716, or 718 of the Act to certify annually to the Commission that records are kept in accordance with the recordkeeping requirements. The certification must be supported with an affidavit or declaration under penalty of perjury, signed and dated by an authorized officer of the entity with personal knowledge of the representations provided in the company's certification, verifying the truth and accuracy of the information. The certification must also identify the name and contact details of the person or persons within the company that are authorized to resolve accessibility complaints, and the agent designated for service of process. The certification must be filed with the Consumer and Governmental Affairs Bureau on or before April 1 each year for records pertaining to the previous calendar year. The certification must be updated when necessary to keep the contact information current.

d) The Commission also established procedures in document FCC 11-151 to facilitate the filing of formal and informal complaints alleging violations of sections 255, 716, or 718 of the Act. Those procedures include a nondiscretionary pre-filing notice procedure to facilitate dispute resolution. As a prerequisite to filing an informal complaint, complainants must first request dispute assistance from the Consumer and Governmental Affairs Bureau's Disability Rights Office.

The rules adopted in document FCC 11-151 temporarily exempt advanced communications service providers and equipment manufacturers from the accessibility obligations of section 716 of the Act and, in effect, from the recordkeeping requirements and enforcement procedures of section 717 of the Act, if they qualify as small business concerns under the Small Business Administration's (SBA) rules and size standards for the industry in which they are primarily engaged. These size standards are based on the maximum number of employees or maximum annual receipts of a business concern. The SBA categorizes industries for its size standards using the North American Industry Classification System (NAICS).

Federal Communications Commission.

Marlene H. Dortch,

Secretary,

Office of the Secretary,

Office of Managing Director.

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